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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,751

05/09/2006

Johannes Henricus Maria Korst

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

LOONAN, ERIC T

ART UNIT

PAPER NUMBER

2189

MAIL DATE

DELIVERY MODE

01/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,751

Applicant(s)

KORST ET AL.

Examiner

Eric Loonan

Art Unit

2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is the initial Office action based on the 10/595,751 application filed 9 May 2006. **Claims 1-13**, as originally filed, are currently pending and have been considered below.

Specification

The title of the invention is not descriptive. The examiner suggests for a new title be applied to the invention that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claim lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either “functional descriptive material” or “non-functional descriptive material.” Both types of “descriptive material” are non-statutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming non-functional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-13** are rejected under 35 U.S.C. 102(e) as being anticipated by Van Der Brug (US PGPub 2006/0204215)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claim 1: Van Der Brug teaches a method of retrieving data objects stored in a storage device organised in allocation units, the method comprising the steps: a) selecting multiple predetermined data objects of a particular type for retrieval; b) determining whether a selected first data object is stored fragmented over multiple allocation units; c) if the selected first data object is stored fragmented over multiple allocation units: i.) selecting a second data object of the particular type stored close to the selected first data object, the second data object not being stored fragmented over multiple allocation units; and ii.) unselecting the selected first data object; and d) retrieving the selected data objects (Section [0034]).

Claim 2: Van Der Brug teaches a method according to claim 1, wherein the data objects are stored in a sequence and second data object is selected from a group of data objects between and including: a) a selected third data object, wherein the selected third data object is the closest selected data object in the sequence prior to the selected first data object; and b) the selected first data object (Section [0034]).

Claim 3: Van Der Brug teaches a method according to claim 2, wherein the second data object is the selected third data object (Section [0034]).

Claim 4: Van Der Brug teaches a method according to claim 1, wherein the data objects are stored in a sequence and the second data object is selected from a group of data objects between and including: a) a selected fourth data object, wherein the selected fourth data object is the closest selected data object in the sequence after the selected first data object; and b) the selected first data object (Section [0036]).

Claim 5: Van Der Brug teaches a method according to claim 4, wherein the second data object is the selected fourth data object (Section [0036]).

Claim 6: Van Der Brug teaches a method according to claim 1, wherein the data objects are frames comprised by a video stream (Section [0031]).

Claim 7: Van Der Brug teaches a method according to claim 6, wherein stream is coded and comprises intra-coded and inter-coded frames and the data objects of the particular type are intra-coded frames (Section [0026]).

Claim 8: Van Der Brug teaches a method according to claim 1, wherein the storage device is a disk based medium (Section [0033]).

Claim 9: Van Der Brug teaches a circuit for retrieving data objects stored in a storage device organised in allocation units, the circuit comprising a processing unit conceived to a) select multiple pre-determined data objects of a particular type for retrieval; b) determine whether a selected first data object is stored fragmented over multiple allocation units; c) if the selected first data object is stored fragmented over multiple allocation units: i.) select a second data object of the particular type stored

close prior to or after the first selected data object, the second data object not being stored fragmented over multiple allocation units; and ii.) unselect the selected first data object; and d) retrieve the selected data objects (Section [0034]).

Claim 10: Van Der Brug teaches an apparatus for rendering of audiovisual data, comprising a memory for storing audiovisual data, the circuit according to claim 9 for retrieving audiovisual data from the memory and means for rendering the retrieved audiovisual data (Section [0031]).

Claim 11: Van Der Brug teaches a computer programme product for programming a processing unit to execute the method according to claim 1 (Section [0017]).

Claim 12: Van Der Brug teaches a record carrier carrying the computer programme product according to claim 11 (Section [0016]).

Claim 13: Van Der Brug teaches a programmed computer enabled to execute the method according to claim 1 (Section [0017]).

Conclusion

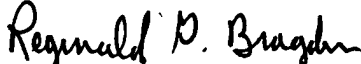
The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach similar methods to manipulate disk access during video playback.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Loonan whose telephone number is (571) 272-6994. The examiner can normally be reached on Monday-Friday, 7:30am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald Bragdon can be reached on (571) 272-4204. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ETL


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